

AMENDED IN SENATE APRIL 19, 2012

SENATE BILL

No. 1371

Introduced by Senator Anderson

February 24, 2012

An act to amend Section ~~1202.4~~ 1205 of the Penal Code, relating to victim restitution.

LEGISLATIVE COUNSEL'S DIGEST

SB 1371, as amended, Anderson. Victim restitution: ~~private debt collector; fines: default.~~

Existing law requires a court to order a defendant to make restitution in every case in which a victim has suffered economic loss as a result of the defendant's conduct. Existing law requires the restitution order to be based on the amount of loss claimed by the victim or victims, and to be of a dollar amount that is sufficient to fully reimburse the victim or victims for every determined economic loss incurred as a result of the defendant's criminal conduct, as specified. Under existing law, a restitution order imposed pursuant to these provisions is enforceable as if the order were a civil judgment.

~~Existing law provides for compensation to be made from the Restitution Fund to crime victims by the California Victim Compensation and Government Claims Board. Existing law requires that the board be subrogated to the rights of the recipient of a restitution order to the extent that any compensation was granted to the recipient by the board. Existing law also provides that the board is entitled to a lien on any judgment, award, or settlement in favor of the crime victim receiving restitution in the amount of compensation granted to the victim by the board.~~

~~This bill would authorize the board, with the consent of the victim of a crime to whom restitution is owed, to enter into a contract with a private debt collector in order to promote the collection of restitution owed to the victim after an order for restitution has been made, as specified.~~

Existing law specifies that a judgment that a defendant pay a fine may also direct that he or she be imprisoned until the fine is satisfied, and that the imprisonment begin at and continue after the expiration of any other prison sentence. Existing law makes those provisions applicable to restitution fines and restitution orders only if the defendant has defaulted on the payment of other fines.

This bill would instead make those provisions regarding imprisonment until a fine is satisfied inapplicable to restitution fines and restitution orders.

Vote: majority. Appropriation: no. Fiscal committee: ~~yes~~-no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 1205 of the Penal Code is amended to
2 read:
3 1205. (a) A judgment that the defendant pay a fine, with or
4 without other punishment, may also direct that he or she be
5 imprisoned until the fine is satisfied and may further direct that
6 the imprisonment begin at and continue after the expiration of any
7 imprisonment imposed as a part of the punishment or of any other
8 imprisonment to which ~~he or she~~ *the defendant* may ~~therefore~~
9 have been sentenced. ~~Each of these judgments~~ *The judgment* shall
10 specify the ~~extent~~ *term* of the imprisonment for nonpayment of
11 the fine, which shall not be more than one day for each thirty
12 dollars (\$30) of the fine, nor exceed ~~in any case~~ the term for which
13 the defendant ~~might~~ *may* be sentenced to imprisonment for the
14 offense of which he or she has been convicted. A defendant held
15 in custody for nonpayment of a fine shall be entitled to credit on
16 the fine for each day he or she is ~~so~~ held in custody, at the rate
17 specified in the judgment. When the defendant has been convicted
18 of a misdemeanor, a judgment that the defendant pay a fine may
19 also direct that he or she pay the fine within a limited time or in
20 installments on specified dates, and that in default of payment as
21 ~~therein~~ stipulated he or she be imprisoned in the discretion of the

1 court either until the defaulted installment is satisfied or until the
2 fine is satisfied in full; but unless the direction is given in the
3 judgment, the fine shall be payable forthwith.

4 (b) Except as otherwise provided in case of fines imposed;
5 ~~including restitution fines or restitution orders, as conditions a~~
6 *condition* of probation, the defendant shall pay the fine to the clerk
7 of the court, or to the judge ~~thereof~~ if there is no clerk, unless the
8 defendant is taken into custody for nonpayment of the fine, in
9 which event payments made while he or she is in custody shall be
10 made to the officer who holds ~~him or her~~ *the defendant* in custody,
11 and all amounts so paid shall be ~~forthwith~~ paid over by the officer
12 to the court ~~which that~~ rendered the judgment. The clerk shall
13 report to the court every default in payment of a fine or any part
14 ~~thereof of that fine~~, or if there is no clerk, the court shall take notice
15 of the default. If time has been given for payment of a fine or it
16 has been made payable in installments, the court shall, upon any
17 default in payment, immediately order the arrest of the defendant
18 and order him or her to show cause why he or she should not be
19 imprisoned until the fine or installment ~~thereof, as the case may~~
20 ~~be~~, is satisfied in full. If the fine, ~~restitution fine, restitution order,~~
21 or installment, is payable forthwith and it is not so paid, the court
22 shall, without further proceedings, immediately commit the
23 defendant to the custody of the proper officer to be held in custody
24 until the fine or installment ~~thereof, as the case may be~~, is satisfied
25 in full.

26 (c) This section applies to any violation of any of the codes or
27 statutes of this state punishable by a fine or by a fine and
28 imprisonment.

29 ~~Nothing~~

30 (d) *Nothing* in this section shall be construed to prohibit the
31 clerk of the court, or the judge ~~thereof~~ if there is no clerk, from
32 turning these accounts over to another county department or a
33 collecting agency for processing and collection.

34 ~~(d)~~

35 (e) The defendant shall pay to the clerk of the court or the
36 collecting agency a fee for the processing of installment accounts.
37 This fee shall equal the administrative and clerical costs, as
38 determined by the board of supervisors, or by the court, depending
39 on which entity administers the account. The defendant shall pay
40 to the clerk of the court or the collecting agency the fee established

1 for the processing of the accounts receivable that are not to be paid
2 in installments. The fee shall equal the administrative and clerical
3 costs, as determined by the board of supervisors, or by the court,
4 depending on which entity administers the account, except that
5 the fee shall not exceed thirty dollars (\$30).

6 ~~(e)~~

7 ~~(f)~~ This section shall ~~only~~ *not* apply to restitution fines and
8 restitution orders ~~if the defendant has defaulted on the payment of~~
9 ~~other fines.~~

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12 **All matter omitted in this version of the bill**
13 **appears in the bill as introduced in the**
14 **Senate, February 24, 2012. (JR11)**
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